

CAUSE NUMBER: \_\_\_\_\_

<b>MARIA MAGDALENA GONZALEZ</b>	§	<b>IN THE DISTRICT COURT</b>
<b>Plaintiff</b>	§	
	§	
<b>v.</b>	§	<b>_____ JUDICIAL DISTRICT</b>
	§	
<b>KROGER TEXAS L.P.</b>	§	
<b>Defendant</b>	§	<b>HARRIS COUNTY, TEXAS</b>

**PLAINTIFF'S ORIGINAL PETITION****TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Plaintiff MARIA MAGDALENA GONZALEZ, and files this, her Plaintiff's Original Petition, complaining of Defendant KROGER TEXAS LP, and for cause of action would respectfully show the Court and Jury the following:

**DISCOVERY CONTROL PLAN LEVEL**

Plaintiff intends that discovery be conducted under Discovery Level 2.

**PARTIES AND SERVICE**

Plaintiff, Maria Magdalena Martinez, is an Individual whose address is 11707 Marrs Drive in Houston, Harris County, Texas.

Kroger Texas L.P. ("Kroger" or "Defendant") is a limited partnership registered and authorized to do business in the State of Texas. Kroger may be served with process by serving its registered agent in Texas or through the Texas Secretary of State at Corporation Service Company d/b/a CSC-Lawyers Inco., which may be found at 211 E. 7<sup>th</sup> Street, Suite 620 in Austin, Texas.

**JURISDICTION AND VENUE**

The subject matter in controversy is within the jurisdictional limits of this court.

This court has jurisdiction over the parties because all parties are either domiciled in Texas or stratify the minimum contacts test.

Venue in Harris County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in Harris County, Texas.

### **FACTS**

On April 23, 2020, at The Kroger Co., located on 6315 Garth Road in Baytown, Harris County, Texas, Plaintiff Maria Magdalena Gonzalez was walking down a frozen aisle section and pushing a grocery cart on the premises of The Kroger Co. Suddenly and unexpectedly, Plaintiff's right foot stepped on a piece of raw chicken causing Plaintiff to fall forward and hitting the underside of the grocery cart, which then caused Plaintiff to hit her left knee with the floor. Such fall cause Plaintiff to suffer serious and lasting injuries for which she now sues.

### **PREMISES LIABILITY OF DEFENDANT KROGER TEXAS L.P.**

At all times material hereto, Defendant was the possessor in control of the premises located at 6315 Garth Road in Baytown, Harris County, Texas.

Plaintiff entered Defendant's premises with Defendant's knowledge and for their mutual benefit. Plaintiff Maria Magdalena Gonzalez entered upon said premises for the purpose of shopping for "groceries" and/or household goods. She entered on the said property of Defendant at the invitation of Defendant to engage in the act of shopping for "groceries" and/or household goods.

A condition on Defendant's premises posed an unreasonable risk of harm. During the time that Plaintiff was upon Defendant's property, Plaintiff was seriously injured as a result of a dangerous condition in that Defendant permitted the area where Plaintiff fell to become dangerous by having the floor in an unsafe condition with the piece of raw chicken on the pathway floor of its premises. Plaintiff was walking on Defendant's premises, when suddenly and without warning Plaintiff slipped and fell on the piece of raw chicken located on the aisle pathway floor of Defendant's premises; Plaintiff fell forward causing her to land on her knee as a result of the unsafe condition.

Defendant, Defendant's agents, servants, and employees negligently permitted the area where Plaintiff fell to become dangerous by failing to remove or eliminate the piece of raw chicken located on an aisle pathway floor on Defendant's premises, negligently or willfully allowed such condition to continue and negligently or willfully failed to warn Plaintiff of the condition of the floor. This condition existed despite the fact that Defendant or Defendant's agents knew or should have known of the existence of the aforementioned condition and that there was likelihood of a person being injured as occurred to Plaintiff.

Furthermore, Plaintiff would show the court that the condition had continued for such period that had Defendant or Defendant's agents exercised ordinary care in the maintenance of the area, it would have been noticed and corrected or removed by such persons.

At all times pertinent herein, Defendant, and any of Defendant's agents, who were acting in the scope of their employment, were guilty of negligent conduct toward the Plaintiff in:

- A. Failing to remove or eliminate the piece of raw chicken located on the aisle pathway floor of Defendant's premises;

- B. Failing to properly inspect and maintain the flooring area in question to discover the dangerous condition;
- C. Failing to discover and remove the piece of raw chicken located on the aisle pathway floor on Defendant's premises; within a reasonable time;
- D. Failing to maintain the floor in a reasonably safe condition;
- E. Failing to give warnings to Plaintiff of the unsafe condition; and
- F. Failing to give adequate and understandable warnings to Plaintiff of the unsafe condition of the flooring area.

### **PROXIMATE CAUSE**

Each and every, all and singular of the foregoing acts and omissions, on the part of Defendant, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

### **DAMAGES FOR PLAINTIFF**

As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendant's acts as described herein, Plaintiff was caused to suffer serious injuries, and to endure anxiety, pain, and discomfort resulting in damages more fully set forth below.

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff has incurred the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Harris County, Texas and Fort Bend County, Texas;
- B. Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Mental anguish in the past;
- E. Physical pain and suffering in the future;
- F. Mental anguish in the future;
- G. Physical impairment in the past;
- H. Physical impairment which, in all reasonable probability, will be suffered in the future;
- I. Loss of Consortium in the past, including damages to the family relationship, loss

of care, comfort, solace, companionship, protection, services, and/or physical relations;

J. Loss of Consortium in the future including damages to the family relationship, loss of care, comfort, solace, companionship, protection, services, and/or physical relations;

K. Loss of Household Services in the past;

L. Loss of Household Services in the future;

M. Disfigurement in the past; and

N. Disfigurement in the future.

By reason of the above damages, Plaintiff Maria Magdalena Gonzalez has been damaged in an amount in excess of the minimal jurisdictional limits of this Court. Plaintiff seeks monetary relief of **\$300,000.00 or less**, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

#### **REQUEST FOR DISCLOSURE**

Pursuant to Rule 194, Defendant is requested to disclose, within 50 days of service of this request, the information or materials described in Rule 194.2 (a) – (1).

#### **PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause she obtains judgment against Defendant with interest on the judgement at the legal rate, pre-judgment interest, cost of the court and for such other relief, both in law and equity, to which Plaintiff may show herself justly entitled to.

Respectfully submitted,

**LAW OFFICE OF CHRIS SANCHEZ, P.C.**  
104 S 23rd Street  
McAllen, Texas 78501  
Phone: (956) 686-4357  
Fax: (956) 686-4362

By: /s/Chris Sanchez  
Texas State Bar Number 24084520  
Email: [LawOfficeOfChrisSanchez@gmail.com](mailto:LawOfficeOfChrisSanchez@gmail.com)  
***Attorney for Plaintiff***